

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE MAY 6, 2014

AMENDED IN SENATE APRIL 21, 2014

AMENDED IN SENATE APRIL 10, 2014

AMENDED IN SENATE MARCH 27, 2014

SENATE BILL

No. 1132

Introduced by Senators Mitchell and Leno

(Principal coauthors: Assembly Members Ammiano and Levine)

(Coauthors: Senators Corbett, DeSaulnier, Hancock, Jackson, Lieu, and Wolk)

(Coauthors: Assembly Members Bloom, Chesbro, Gordon, *Skinner*, Stone, and Williams)

February 20, 2014

An act to amend Sections 3157 and 3160 of, and to repeal and add Section 3161 of, the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

SB 1132, as amended, Mitchell. Oil and gas: well stimulation treatments.

Under existing law, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation regulates the drilling, operation, maintenance, stimulation, and abandonment of oil and gas wells in the state. The State Oil and Gas Supervisor, or supervisor, supervises the drilling, operation, maintenance, stimulation, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities related to oil and gas production within an oil and gas field regarding safety and environmental damage.

Existing law requires an operator, prior to performing a well stimulating treatment, as defined, on a well, to obtain approval from the supervisor or district deputy. Under existing law, a person who violates any prohibition specific to the regulation of oil or gas operations is guilty of a misdemeanor.

Existing law requires the Secretary of the Natural Resources Agency, on or before January 1, 2015, to cause to be conducted, and completed, an independent scientific study on well stimulation treatments, including acid well stimulation and hydraulic fracturing treatments. Existing law requires the division to finalize and implement regulations regulating well stimulation treatments by January 1, 2015.

This bill would revise the definition of “well stimulation treatment.” The bill would require the scientific study to be conducted and completed no later than June 30, 2016, and to consider additional elements, including, among other things, evaluating various potential direct, indirect, and cumulative health and environmental effects of onshore and offshore well stimulation and well stimulation treatment-related activities, as specified. The bill would also prohibit all well stimulation treatments until (1) the Secretary of the Natural Resources Agency convenes a committee to review the scientific study, as specified, (2) the Governor issues a determination that specific measures are in place to ensure that well stimulation treatments do not ~~contribute to the deterioration of environmental conditions in a way that threatens public health and welfare or to the environmental and economic sustainability of the state; create adverse impacts to public and environmental health or; if the well stimulation treatments result in adverse impacts to public and environmental health, the impacts are identified and sufficiently mitigated to avoid significant adverse impacts to public and environmental health at the local, regional, or statewide level,~~ and (3) the division prepares an environmental impact report, as provided. Because a violation of the bill’s requirements would be a crime, the bill would impose a state-mandated local program. This bill would require the division to finalize the regulations regulating well stimulation treatments by June 30, 2015.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The state has historically failed to appropriately monitor or
4 track well stimulation activity and to study its effects.

5 (2) Well stimulation and well stimulation-related activities may
6 release chemicals, including methanol, crystalline silica dust,
7 hydrochloric and hydrofluoric acid, xylene, 2-butoxyethanol,
8 naphthalene, ethylbenzene, 2-propanol, volatile organic
9 compounds, and particulate matter. These materials may be
10 released at levels that are harmful and may have an adverse impact
11 on the state's air quality and public health and safety. Many parts
12 of California already suffer from poor air quality.

13 (3) Well stimulation and well stimulation-related activities can
14 involve the use of hundreds of chemicals, some of which are known
15 to be carcinogenic or could otherwise be harmful to human health.

16 (4) Exposure to the chemicals used in well stimulation and well
17 stimulation-related activities may pose a widespread and significant
18 risk to public health and safety and the environment.

19 (5) Well stimulation and well stimulation-related activities may
20 involve the use of substantial amounts of freshwater. California is
21 currently experiencing one of the worst droughts in the state's
22 history and faces a scarcity of freshwater resources.

23 (6) Well stimulation and well stimulation-related activities may
24 result in the emission of greenhouse gases, such as carbon dioxide
25 and methane. Furthermore, well stimulation and well
26 stimulation-related activities may lead to a dramatic increase in
27 the overall amount of recoverable oil and gas in the state. The
28 expansion of oil and gas activity and the process of well stimulation
29 both could threaten to undermine the state's goal of reducing
30 greenhouse gas emissions.

31 (7) The disposal of wastewater resulting from well stimulation
32 and well stimulation-related activities into underground injection
33 wells in other states has been linked to increased earthquake
34 activity.

(8) Fracking and other forms of well stimulation have occurred disproportionately near communities consisting largely of people of color, low-income households, non-English-speaking households, and persons already experiencing high levels of water or air pollution or water scarcity.

(9) Well stimulation and well stimulation-related activities may harm wildlife, including species that are protected under federal and state endangered species laws.

(b) It is the intent of the Legislature in enacting this act to protect the public health and welfare of the state.

SEC. 2. Section 3157 of the Public Resources Code is amended to read:

3157. (a) For purposes of this article, “well stimulation treatment” means any treatment of a well designed to enhance oil and gas production or recovery by increasing the permeability of the formation or the flow of fluid through the well. Well stimulation treatments include, but are not limited to, hydraulic fracturing treatments and acid well stimulation treatments.

(b) Well stimulation treatments do not include steam flooding, water flooding, or cyclic steaming and do not include routine well cleanout work, routine well maintenance, routine removal of formation damage due to drilling, bottom hole pressure surveys, or routine activities that do not affect the integrity of the well or the formation.

(c) Well stimulation treatments do not include gas storage projects that are subject to Section 1724.9 of Title 14 of the California Code of Regulations.

SEC. 3. Section 3160 of the Public Resources Code is amended to read:

3160. (a) The Secretary of the Natural Resources Agency shall cause to be conducted, and completed, no later than June 30, 2016, an independent scientific study on well stimulation treatments, including, but not limited to, hydraulic fracturing and acid well stimulation treatments. The scientific study shall evaluate the hazards and risks and potential hazards and risks that well stimulation treatments and well stimulation treatment-related activities pose to natural resources and public, occupational, and environmental health and safety. The scientific study shall do all of the following:

1 (1) Follow the well-established standard protocols of the
2 scientific profession, including, but not limited to, the use of
3 recognized experts, peer review, and publication. The study shall
4 be based solely on the best available scientific, health,
5 environmental, and statistical information.

6 (2) (A) Identify all onshore areas with existing and potential
7 conventional and unconventional oil and gas reserves and gas
8 storage projects where well stimulation treatments are likely to
9 spur or enable oil and gas exploration and production, or gas
10 storage.

11 (B) Identify offshore areas, within the jurisdiction of the
12 division, with existing and potential conventional and
13 unconventional oil and gas reserves where well stimulation
14 treatments are likely to spur or enable oil and gas exploration and
15 production.

16 (3) (A) Evaluate all aspects and effects of well stimulation
17 treatments, including, but not limited to, the well stimulation
18 treatment, additive and water transportation to and from the well
19 site, mixing, storage, and handling of the well stimulation treatment
20 fluids and additives onsite, the use and potential for use of nontoxic
21 additives and the use or reuse of treated or produced water in well
22 stimulation treatment fluids, and flowback fluids and the handling,
23 treatment, and disposal of flowback fluids and other materials, if
24 any, generated by the treatment. Specifically, the potential for the
25 use of recycled water in well stimulation treatments, including
26 appropriate water quality requirements and available treatment
27 technologies, shall be evaluated. Well stimulation treatments
28 include, but are not limited to, hydraulic fracturing and acid well
29 stimulation treatments.

30 (B) Review and evaluate acid matrix stimulation treatments,
31 including the range of acid volumes applied per treated foot and
32 total acid volumes used in treatments, types of acids, acid
33 concentration, and other chemicals used in the treatments.

34 (C) Evaluate all potential direct, indirect, and cumulative health
35 and environmental effects of onshore well stimulation treatments
36 and well stimulation treatment-related activities.

37 (D) Evaluate all potential direct, indirect, and cumulative health
38 and environmental effects of offshore well stimulation treatments
39 and well stimulation treatment-related activities that are within the
40 jurisdiction of the division.

1 (E) Evaluate all direct, indirect, and cumulative health and
2 environmental effects of the full lifecycle of oil and gas
3 exploration, development, and production, including flowback
4 fluids and other byproducts that would result from allowing well
5 stimulation treatments within the state.

6 (F) Evaluate the extent of the increase in oil and gas
7 development, refining processes, and end-use combustion that
8 would result from allowing well stimulation treatments within the
9 state.

10 (4) (A) Consider potential water contamination, including
11 groundwater and surface water, potential depletion of water
12 resources, potential effects on water sustainability, and the ultimate
13 disposition, transport, transformation, and toxicology of well
14 stimulation treatments, including acid well stimulation fluids,
15 hydraulic fracturing fluids, and waste hydraulic fracturing fluids,
16 and acid well stimulation in the environment.

17 (B) Consider surface contamination, potential noise and light
18 pollution, as well as actual and potential induced seismicity.

19 (C) Consider atmospheric emissions, including potential
20 greenhouse gas emissions, the potential degradation of air quality,
21 and the potential impacts of well stimulation and increased oil and
22 gas activity on the state's efforts to meet its greenhouse gas
23 reduction targets under the California Global Warming Solutions
24 Act of 2006 (Division 25.5 (commencing with Section 38500) of
25 the Health and Safety Code).

26 (5) Identify and evaluate the geologic features present in the
27 vicinity of a well, including the well bore, that should be taken
28 into consideration in the design of a proposed well stimulation
29 treatment.

30 (6) Identify and evaluate all of the following, as they relate to
31 well stimulation:

32 (A) The potential impacts of well stimulation treatments on
33 private property, including home values and direct damage to
34 property and land.

35 (B) The potential human health risk for each chemical used in
36 well stimulation treatments.

37 (C) The potential economic costs and harms of increased oil
38 and gas operations in the state as a result of well stimulation
39 treatments, including, but not limited to, the resulting economic
40 costs to the agricultural sector and the tourism industry.

1 (D) The potential effects on communities most likely to be
2 negatively affected by the impacts of well stimulation, including,
3 but not limited to, all of the following:

- 4 (i) Communities consisting largely of people of color.
- 5 (ii) Communities consisting largely of low-income individuals.
- 6 (iii) Communities consisting largely of non-English-speaking
7 households.
- 8 (iv) Communities already experiencing high levels of water or
9 air pollution, or water scarcity.

10 (E) Potential harm to the public health and welfare of the state's
11 residents and the state's environment, both cumulatively and
12 specific to each region where well stimulation treatments may
13 occur.

14 (F) The potential effect of increased traffic due to increased oil
15 and gas activity as a result of well stimulation treatments, including
16 air emissions from vehicle traffic, and road expansion and
17 deterioration.

18 (G) The potential effect on pipeline infrastructure due to
19 increased oil and gas activity as a result of well stimulation
20 treatments, including potential pipeline leakage.

21 (H) Potential impacts on wildlife, including harm to endangered
22 or threatened species, native plants, and habitat, including habitat
23 fragmentation.

24 (I) Whether existing emergency planning, procedures, and
25 resources adequately and fully ensure public safety in the event
26 of an emergency.

27 (J) Potential risks to worker safety.

28 (7) Include a hazard assessment and risk analysis addressing
29 occupational and environmental exposures to well stimulation
30 treatments, including hydraulic fracturing treatments, hydraulic
31 fracturing treatment-related processes, acid well stimulation
32 treatments, acid well stimulation treatment-related processes, and
33 the corresponding impacts on public health and safety with the
34 participation of the Office of Environmental Health Hazard
35 Assessment.

36 (8) Clearly identify where additional information is necessary
37 to inform and improve the analyses.

38 (b) The Secretary of the Natural Resources Agency shall notify
39 the Joint Legislative Budget Committee and the chairs of the
40 Assembly Natural Resources, Senate Environmental Quality, and

1 Senate Natural Resources and Water Committees on the progress
2 of the independent scientific study on well stimulation and related
3 activities. The first progress report shall be provided to the
4 Legislature on or before April 1, 2014, and progress reports shall
5 continue every four months thereafter until the independent study
6 is completed, including a peer review of the study by independent
7 scientific experts.

8 (c) (1) (A) On or before January 1, 2015, the division, in
9 consultation with the Department of Toxic Substances Control,
10 the State Air Resources Board, the State Water Resources Control
11 Board, the Department of Resources Recycling and Recovery, and
12 any local air districts and regional water quality control boards in
13 areas where well stimulation treatments, including acid well
14 stimulation treatments and hydraulic fracturing treatments may
15 occur, shall adopt rules and regulations specific to well stimulation
16 treatments. The rules and regulations shall include, but are not
17 limited to, revisions, as needed, to the rules and regulations
18 governing construction of wells and well casings to ensure integrity
19 of wells, well casings, and the geologic and hydrologic isolation
20 of the oil and gas formation during and following well stimulation
21 treatments, and full disclosure of the composition and disposition
22 of well stimulation fluids, including, but not limited to, hydraulic
23 fracturing fluids, acid well stimulation fluids, and flowback fluids.

24 (B) The rules and regulations shall additionally include
25 provisions for an independent entity or person to perform the
26 notification requirements pursuant to paragraph (6) of subdivision
27 (e), for the operator to provide for baseline and followup water
28 testing upon request as specified in paragraph (7) of subdivision
29 (e).

30 (C) (i) In order to identify the acid matrix stimulation treatments
31 that are subject to this section, the rules and regulations shall
32 establish threshold values for acid volume applied per treated foot
33 of any individual stage of the well or for total acid volume of the
34 treatment, or both, based upon a quantitative assessment of the
35 risks posed by acid matrix stimulation treatments that exceed the
36 specified threshold value or values in order to prevent, as far as
37 possible, damage to life, health, property, and natural resources
38 pursuant to Section 3106.

39 (ii) On or before January 1, 2020, the division shall review and
40 evaluate the threshold values for acid volume applied per treated

1 foot and total acid volume of the treatment, based upon data
2 collected in the state, for acid matrix stimulation treatments. The
3 division shall revise the values through the regulatory process, if
4 necessary, based upon the best available scientific information,
5 including the results of the independent scientific study pursuant
6 to subparagraph (B) of paragraph (3) of subdivision (a).

7 (2) Full disclosure of the composition and disposition of well
8 stimulation fluids, including, but not limited to, hydraulic fracturing
9 fluids and acid stimulation treatment fluids, shall, at a minimum,
10 include:

11 (A) The date of the well stimulation treatment.

12 (B) A complete list of the names, Chemical Abstract Service
13 (CAS) numbers, and maximum concentration, in percent by mass,
14 of each and every chemical constituent of the well stimulation
15 treatment fluids used. If a CAS number does not exist for a
16 chemical constituent, the well owner or operator may provide
17 another unique identifier, if available.

18 (C) The trade name, the supplier, concentration, and a brief
19 description of the intended purpose of each additive contained in
20 the well stimulation treatment fluid.

21 (D) The total volume of base fluid used during the well
22 stimulation treatment, and the identification of whether the base
23 fluid is water suitable for irrigation or domestic purposes, water
24 not suitable for irrigation or domestic purposes, or a fluid other
25 than water.

26 (E) The source, volume, and specific composition and
27 disposition of all water, including, but not limited to, all water
28 used as base fluid during the well stimulation treatment and
29 recovered from the well following the well stimulation treatment
30 that is not otherwise reported as produced water pursuant to Section
31 3227. Any repeated reuse of treated or untreated water for well
32 stimulation treatments and well stimulation treatment-related
33 activities shall be identified.

34 (F) The specific composition and disposition of all well
35 stimulation treatment fluids, including waste fluids, other than
36 water.

37 (G) Any radiological components or tracers injected into the
38 well as part of, or in order to evaluate, the well stimulation
39 treatment, a description of the recovery method, if any, for those

1 components or tracers, the recovery rate, and specific disposal
2 information for recovered components or tracers.

3 (H) The radioactivity of the recovered well stimulation fluids.

4 (I) The location of the portion of the well subject to the well
5 stimulation treatment and the extent of the fracturing or other
6 modification, if any, surrounding the well induced by the treatment.

7 (d) (1) Through the consultation process described in paragraph
8 (1) of subdivision (c), the division shall collaboratively identify
9 and delineate the existing statutory authority and regulatory
10 responsibility relating to well stimulation treatments and well
11 stimulation treatment-related activities of the Department of Toxic
12 Substances Control, the State Air Resources Board, any local air
13 districts, the State Water Resources Control Board, the Department
14 of Resources Recycling and Recovery, any regional water quality
15 control board, and other public entities, as applicable. This shall
16 specify how the respective authority, responsibility, and notification
17 and reporting requirements associated with well stimulation
18 treatments and well stimulation treatment-related activities are
19 divided among each public entity.

20 (2) On or before January 1, 2015, the division shall enter into
21 formal agreements with the Department of Toxic Substances
22 Control, the State Air Resources Board, any local air districts where
23 well stimulation treatments may occur, the State Water Resources
24 Control Board, the Department of Resources Recycling and
25 Recovery, and any regional water quality control board where well
26 stimulation treatments may occur, clearly delineating respective
27 authority, responsibility, and notification and reporting
28 requirements associated with well stimulation treatments and well
29 stimulation treatment-related activities, including air and water
30 quality monitoring, in order to promote regulatory transparency
31 and accountability.

32 (3) The agreements under paragraph (2) shall specify the
33 appropriate public entity responsible for air and water quality
34 monitoring and the safe and lawful disposal of materials in
35 landfills, include trade secret handling protocols, if necessary, and
36 provide for ready public access to information related to well
37 stimulation treatments and related activities.

38 (4) Regulations, if necessary, shall be revised appropriately to
39 incorporate the agreements under paragraph (2).

(e) (1) Notwithstanding any other law or regulation, prior to performing a well stimulation treatment, the operator shall apply for a permit to perform a well stimulation treatment with the supervisor or district deputy. The well stimulation treatment permit application shall contain the pertinent data the supervisor requires on printed forms supplied by the division or on other forms acceptable to the supervisor. The information provided in the well stimulation treatment permit application shall include, but is not limited to, the following:

(A) The well identification number and location.

(B) The time period during which the well stimulation treatment is planned to occur.

(C) A water management plan that shall include all of the following:

(i) An estimate of the amount of water to be used in the treatment. Estimates of water to be recycled following the well stimulation treatment may be included.

(ii) The anticipated source of the water to be used in the treatment.

(iii) The disposal method identified for the recovered water in the flowback fluid from the treatment that is not produced water included in the statement pursuant to Section 3227.

(D) A complete list of the names, Chemical Abstract Service (CAS) numbers, and estimated concentrations, in percent by mass, of each and every chemical constituent of the well stimulation fluids anticipated to be used in the treatment. If a CAS number does not exist for a chemical constituent, the well owner or operator may provide another unique identifier, if available.

(E) The planned location of the well stimulation treatment on the well bore, the estimated length, height, and direction of the induced fractures or other planned modification, if any, and the location of existing wells, including plugged and abandoned wells, that may be impacted by these fractures and modifications.

(F) A groundwater monitoring plan. Required groundwater monitoring in the vicinity of the well subject to the well stimulation treatment shall be satisfied by one of the following:

(i) The well is located within the boundaries of an existing oil or gas field-specific or regional monitoring program developed pursuant to Section 10783 of the Water Code.

1 (ii) The well is located within the boundaries of an existing oil
2 or gas field-specific or regional monitoring program developed
3 and implemented by the well owner or operator meeting the model
4 criteria established pursuant to Section 10783 of the Water Code.

5 (iii) Through a well-specific monitoring plan implemented by
6 the owner or operator meeting the model criteria established
7 pursuant to Section 10783 of the Water Code, and submitted to
8 the appropriate regional water board for review.

9 (G) The estimated amount of treatment-generated waste
10 materials that are not reported in subparagraph (C) and an identified
11 disposal method for the waste materials.

12 (2) (A) At the supervisor's discretion, and if applied for
13 concurrently, the well stimulation treatment permit described in
14 this section may be combined with the well drilling and related
15 operation notice of intent required pursuant to Section 3203 into
16 a single combined authorization. The portion of the combined
17 authorization applicable to well stimulation shall meet all of the
18 requirements of a well stimulation treatment permit pursuant to
19 this section.

20 (B) Where the supervisor determines that the activities proposed
21 in the well stimulation treatment permit or the combined
22 authorization have met all of the requirements of Division 13
23 (commencing with Section 21000), and have been fully described,
24 analyzed, evaluated, and mitigated, no additional review or
25 mitigation shall be required.

26 (C) The time period available for approval of the portion of the
27 combined authorization applicable to well stimulation is subject
28 to the terms of this section, and not Section 3203.

29 (3) (A) The supervisor or district deputy shall review the well
30 stimulation treatment permit application and may approve the
31 permit if the application is complete. An incomplete application
32 shall not be approved.

33 (B) A well stimulation treatment or repeat well stimulation
34 treatment shall not be performed on any well without a valid permit
35 that the supervisor or district deputy has approved.

36 (C) In considering the permit application, the supervisor or
37 district deputy shall evaluate the quantifiable risk of the well
38 stimulation treatment.

39 (4) The well stimulation treatment permit shall expire one year
40 from the date that the permit is issued.

(5) Within five business days of issuing a permit to perform a well stimulation treatment, the division shall provide a copy of the permit to the appropriate regional water quality control board or boards and to the local planning entity where the well, including its subsurface portion, is located. The division shall also post the permit on the publicly accessible portion of its Internet Web site within five business days of issuing a permit.

(6) (A) It is the policy of the state that a copy of the approved well stimulation treatment permit and information on the available water sampling and testing be provided to every tenant of the surface property and every surface property owner or authorized agent of that owner whose property line location is one of the following:

(i) Within a 1,500 foot radius of the wellhead.

(ii) Within 500 feet from the horizontal projection of all subsurface portions of the designated well to the surface.

(B) (i) The well owner or operator shall identify the area requiring notification and shall contract with an independent entity or person who is responsible for, and shall perform, the notification required pursuant to subparagraph (A).

(ii) The independent entity or person shall identify the individuals notified, the method of notification, the date of the notification, and a list of those notified, and shall provide this information to the division.

(iii) The performance of the independent entity or person shall be subject to review and audit by the division.

(C) A well stimulation treatment shall not commence before 30 calendar days after the permit copies pursuant to subparagraph (A) are provided.

(7) (A) A property owner notified pursuant to paragraph (6) may request water quality sampling and testing from a designated qualified contractor on any water well suitable for drinking or irrigation purposes and on any surface water suitable for drinking or irrigation purposes as follows:

(i) Baseline measurements prior to the commencement of the well stimulation treatment.

(ii) Followup measurements after the well stimulation treatment on the same schedule as the pressure testing of the well casing of the treated well.

(B) The State Water Resources Control Board shall designate one or more qualified independent third-party contractor or contractors that adhere to board-specified standards and protocols to perform the water sampling and testing. The well owner or operator shall pay for the sampling and testing. The sampling and testing performed shall be subject to audit and review by the State Water Resources Control Board or an applicable regional water quality control board, as appropriate.

(C) The results of the water testing shall be provided to the division, appropriate regional water quality control board, and the property owner or authorized agent. A tenant notified pursuant to paragraph (6) shall receive information on the results of the water testing to the extent authorized by his or her lease and, where the tenant has lawful use of the groundwater or surface water identified in subparagraph (A), the tenant may independently contract for similar groundwater or surface water testing.

(8) The division shall retain a list of the entities and property owners notified pursuant to paragraphs (5) and (6).

(9) The operator shall provide notice to the division at least 72 hours prior to the actual start of the well stimulation treatment in order for the division to witness the treatment.

(f) If a well stimulation treatment is performed, a supplier that performs any part of the treatment or provides additives directly to the operator for a well stimulation treatment shall furnish the operator with information suitable for public disclosure needed for the operator to comply with subdivision (g). This information shall be provided as soon as possible but no later than 30 days following the conclusion of the well stimulation treatment.

(g) (1) Within 60 days following cessation of a well stimulation treatment, the operator shall post or cause to be posted to an Internet Web site, designated or maintained by the division and accessible to the public, all of the well stimulation fluid composition and disposition information required to be collected pursuant to the rules and regulations adopted under subdivision (c), including well identification number and location. This shall include the collected water quality data, which the operator shall report electronically to the State Water Resources Control Board.

(2) (A) The division shall develop an Internet Web site for operators to report the information required under this section. The Internet Web site shall be capable of organizing the reported

1 information in a format, such as a spreadsheet, that allows the
2 public to easily search and aggregate, to the extent practicable,
3 each type of information required to be collected pursuant to
4 subdivision (c) using search functions on that Internet Web site.
5 The Internet Web site shall be functional within two years of the
6 Department of Technology's approval of a feasibility study report
7 or appropriation authority to fund the development of the Internet
8 Web site, whichever occurs latest, but no later than January 1,
9 2016.

10 (B) The division may direct reporting to an alternative Internet
11 Web site developed by the Ground Water Protection Council and
12 the Interstate Oil and Gas Compact Commission in the interim
13 until approval or appropriate authority pursuant to subparagraph
14 (A) occur. Prior to the implementation of the division's Internet
15 Web site, the division shall obtain the data reported by operators
16 to the alternative Internet Web site and make it available in an
17 organized electronic format to the public no later than 15 days
18 after it is reported to the alternative Internet Web site.

19 (h) The operator is responsible for compliance with this section.

20 (i) (1) All geologic features within a distance reflecting an
21 appropriate safety factor of the fracture zone for well stimulation
22 treatments that fracture the formation and that have the potential
23 to either limit or facilitate the migration of fluids outside of the
24 fracture zone shall be identified and added to the well history.
25 Geologic features include seismic faults identified by the California
26 Geologic Survey.

27 (2) For the purposes of this section, the "fracture zone" is
28 defined as the volume surrounding the well bore where fractures
29 were created or enhanced by the well stimulation treatment. The
30 safety factor shall be at least five and may vary depending upon
31 geologic knowledge.

32 (3) The division shall review the geologic features important to
33 assessing well stimulation treatments identified in the independent
34 study pursuant to paragraph (5) of subdivision (a). Upon
35 completion of the review, the division shall revise the regulations
36 governing the reporting of geologic features pursuant to this
37 subdivision accordingly.

38 (j) (1) Public disclosure of well stimulation treatment fluid
39 information claimed to contain trade secrets is governed by Section
40 1060 of the Evidence Code, or the Uniform Trade Secrets Act

(Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code), and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(2) Notwithstanding any other law or regulation, none of the following information shall be protected as a trade secret:

(A) The identities of the chemical constituents of additives, including CAS identification numbers.

(B) The concentrations of the additives in the well stimulation treatment fluids.

(C) Any air or other pollution monitoring data.

(D) Health and safety data associated with well stimulation treatment fluids.

(E) The chemical composition of the flowback fluid.

(3) If a trade secret claim is invalid or invalidated, the division shall release the information to the public by revising the information released pursuant to subdivision (g). The supplier shall notify the division of any change in status within 30 days.

(4) (A) If a supplier believes that information regarding a chemical constituent of a well stimulation fluid is a trade secret, the supplier shall nevertheless disclose the information to the division in conjunction with a well stimulation treatment permit application, if not previously disclosed, within 30 days following cessation of well stimulation on a well, and shall notify the division in writing of that belief.

(B) A trade secret claim shall not be made after initial disclosure of the information to the division.

(C) To comply with the public disclosure requirements of this section, the supplier shall indicate where the trade secret information has been withheld and provide substitute information for public disclosure. The substitute information shall be a list, in any order, of the chemical constituents of the additive, including CAS identification numbers. The division shall review and approve the supplied substitute information.

(D) This subdivision does not permit a supplier to refuse to disclose the information required pursuant to this section to the division.

(5) In order to substantiate the trade secret claim, the supplier shall provide information to the division that shows all of the following:

1 (A) The extent to which the trade secret information is known
2 by the supplier's employees, and others involved in the supplier's
3 business and outside the supplier's business.

4 (B) The measures taken by the supplier to guard the secrecy of
5 the trade secret information.

6 (C) The value of the trade secret information to the supplier and
7 its competitors.

8 (D) The amount of effort or money the supplier expended
9 developing the trade secret information and the ease or difficulty
10 with which the trade secret information could be acquired or
11 duplicated by others.

12 (6) If the division determines that the information provided in
13 support of a request for trade secret protection pursuant to
14 paragraph (5) is incomplete, the division shall notify the supplier
15 and the supplier shall have 30 days to complete the submission.
16 An incomplete submission does not meet the substantive criteria
17 for trade secret designation.

18 (7) If the division determines that the information provided in
19 support of a request for trade secret protection does not meet the
20 substantive criteria for trade secret designation, the department
21 shall notify the supplier by certified mail of its determination. The
22 division shall release the information to the public, but not earlier
23 than 60 days after the date of mailing the determination, unless,
24 prior to the expiration of the 60-day period, the supplier obtains
25 an action in an appropriate court for a declaratory judgment that
26 the information is subject to protection or for a preliminary
27 injunction prohibiting disclosure of the information to the public
28 and provides notice to the division of the court order.

29 (8) The supplier is not required to disclose the trade secret
30 information to the operator.

31 (9) Upon receipt of a request for the release of trade secret
32 information to the public, the following procedure applies:

33 (A) The division shall notify the supplier of the request in
34 writing by certified mail, return receipt requested.

35 (B) The division shall release the information to the public, but
36 not earlier than 60 days after the date of mailing the notice of the
37 request for information, unless, prior to the expiration of the 60-day
38 period, the supplier obtains an action in an appropriate court for a
39 declaratory judgment that the information is subject to protection
40 or for a preliminary injunction prohibiting disclosure of the

1 information to the public and provides notice to the division of
2 that action.

3 (10) The division shall develop a timely procedure to provide
4 trade secret information in the following circumstances:

5 (A) To an officer or employee of the division, the state, local
6 governments, including, but not limited to, local air districts, or
7 the United States, in connection with the official duties of that
8 officer or employee, to a health professional under any law for the
9 protection of health, or to contractors with the division or other
10 government entities and their employees if, in the opinion of the
11 division, disclosure is necessary and required for the satisfactory
12 performance of a contract, for performance of work, or to protect
13 health and safety.

14 (B) To a health professional in the event of an emergency or to
15 diagnose or treat a patient.

16 (C) In order to protect public health, to any health professional,
17 toxicologist, or epidemiologist who is employed in the field of
18 public health and who provides a written statement of need. The
19 written statement of need shall include the public health purposes
20 of the disclosure and shall explain the reason the disclosure of the
21 specific chemical and its concentration is required.

22 (D) A health professional may share trade secret information
23 with other persons as may be professionally necessary, in order to
24 diagnose or treat a patient, including, but not limited to, the patient
25 and other health professionals, subject to state and federal laws
26 restricting disclosure of medical records including, but not limited
27 to, Chapter 2 (commencing with Section 56.10) of Part 2.6 of
28 Division 1 of the Civil Code.

29 (E) For purposes of this paragraph, “health professional” means
30 any person licensed or certified pursuant to Division 2
31 (commencing with Section 500) of the Business and Professions
32 Code, the Osteopathic Initiative Act, the Chiropractic Initiative
33 Act, or the Emergency Medical Services System and the
34 Prehospital Emergency Medical Care Personnel Act (Division 2.5
35 (commencing with Section 1797) of the Health and Safety Code).

36 (F) A person in possession of, or with access to, confidential
37 trade secret information pursuant to the provisions of this
38 subdivision may disclose this information to any person who is
39 authorized to receive it. A written confidentiality agreement shall
40 not be required.

1 (k) A well granted confidential status pursuant to Section 3234
2 shall not be required to disclose well stimulation treatment fluid
3 information pursuant to subdivision (g) until the confidential status
4 of the well ceases. Notwithstanding the confidential status of a
5 well, it is public information that a well will be or has been subject
6 to a well stimulation treatment.

7 (l) The division shall perform random periodic spot check
8 inspections to ensure that the information provided on well
9 stimulation treatments is accurately reported, including that the
10 estimates provided prior to the commencement of the well
11 stimulation treatment are reasonably consistent with the well
12 history.

13 (m) Where the division shares jurisdiction over a well or the
14 well stimulation treatment on a well with a federal entity, the
15 division's rules and regulations shall apply in addition to all
16 applicable federal laws and regulations.

17 (n) This article does not relieve the division or any other agency
18 from complying with any other provision of existing laws,
19 regulations, and orders.

20 (o) Well stimulation treatments used for routine maintenance
21 of wells associated with underground storage facilities where
22 natural gas is injected into and withdrawn from depleted or partially
23 depleted oil or gas reservoirs pursuant to subdivision (a) of Section
24 3403.5 are not subject to this section.

25 (p) The division shall finalize the regulations governing this
26 article on or before June 30, 2015.

27 SEC. 4. Section 3161 of the Public Resources Code is repealed.

28 SEC. 5. Section 3161 is added to the Public Resources Code,
29 to read:

30 3161. (a) All well stimulation treatments shall be prohibited
31 until the scientific study pursuant to Section 3160 is completed
32 and all of the requirements of this section are met.

33 (b) No later than six months after the scientific study is
34 complete, the Secretary of the Natural Resources Agency shall
35 convene a committee to review the scientific study. The committee
36 shall include a representative from all of the following:

- 37 (1) The Natural Resources Agency.
- 38 (2) The California Environmental Protection Agency.
- 39 (3) The State Air Resources Board.
- 40 (4) The State Water Resources Control Board.

1 (5) The State Department of Public Health.

2 (c) (1) After reviewing the scientific study as required under
3 subdivision (b), the committee shall issue a tentative report,
4 available to the public, evaluating the scientific study using the
5 best scientific, health, environmental, and statistical information
6 available, that shall include, but is not limited to, all of the
7 following findings:

8 (A) Whether the scientific study is based solely on the best
9 scientific, health, environmental, and statistical information
10 available, and meets all of the requirements of subdivision (a) of
11 Section 3160.

12 (B) Whether the regulations adopted pursuant to subdivision
13 (c) of Section 3160 are sufficient to ensure that the ~~damage and~~
14 risks associated with well stimulation treatments, and the increased
15 oil and gas development as a result of these treatments, do not
16 ~~contribute to the deterioration of environmental conditions in a~~
17 ~~way that threatens public health and welfare or the environmental~~
18 ~~and economic sustainability of the state. create adverse impacts~~
19 *to public and environmental health or, if the well stimulation*
20 *treatments result in adverse impacts to public and environmental*
21 *health, the impacts are identified and sufficiently mitigated to*
22 *avoid significant adverse impacts to public and environmental*
23 *health at the local, regional, or statewide level.*

24 (C) Whether there are measures in place to ensure that well
25 stimulation treatments, and the increased oil and gas development
26 as a result of these treatments, will not impede progress for
27 achieving the greenhouse gas reduction targets under the California
28 Global Warming Solutions Act of 2006 (Division 25.5
29 (commencing with Section 38500) of the Health and Safety Code).

30 (D) Whether other specific measures are in place to ensure that
31 well stimulation treatments within the state do not ~~contribute to~~
32 ~~the deterioration of environmental conditions in a way that~~
33 ~~threatens public health and welfare or the environmental and~~
34 ~~economic sustainability of the state. create adverse impacts to~~
35 *public and environmental health or, if the well stimulation*
36 *treatments result in adverse impacts to public and environmental*
37 *health, the impacts are identified and sufficiently mitigated to*
38 *avoid significant adverse impacts to public and environmental*
39 *health at the local, regional, or statewide level.*

1 (2) The public shall have 60 days to submit comments to the
2 committee regarding the tentative report and the committee shall
3 give full consideration to all of the comments received.

4 (3) (A) If the findings in the report conclude that well
5 stimulation treatments ~~contribute to the deterioration of~~
6 ~~environmental conditions in a way that threatens public health and~~
7 ~~welfare or to the environmental and economic sustainability of the~~
8 ~~state, create adverse impacts to public and environmental health~~
9 ~~or, if the well stimulation treatments result in adverse impacts to~~
10 ~~public and environmental health, the impacts are identified and~~
11 ~~not sufficiently mitigated to avoid significant adverse impacts to~~
12 ~~public and environmental health at the local, regional, or statewide~~
13 ~~level, the committee may require an additional study to address~~
14 any areas of concern and the prohibition on well stimulation
15 treatments pursuant to subdivision (a) shall remain in effect.

16 (B) If the findings in the report conclude that well stimulation
17 treatments do not ~~contribute to the deterioration of environmental~~
18 ~~conditions in a way that threatens public health and welfare or to~~
19 ~~the environmental and economic sustainability of the state, create~~
20 ~~adverse impacts to public and environmental health or, if the well~~
21 ~~stimulation treatments result in adverse impacts to public and~~
22 ~~environmental health, the impacts are identified and sufficiently~~
23 ~~mitigated to avoid significant adverse impacts to public and~~
24 ~~environmental health at the local, regional, or statewide level, the~~
25 committee shall certify the report as final.

26 (d) Upon certification by the committee, the report shall be
27 provided to the Governor and the appropriate committees of the
28 Legislature.

29 (e) (1) Upon receipt of the report, the Governor shall make a
30 determination as to whether specific measures are in place to ensure
31 that well stimulation treatments within the state do not ~~contribute~~
32 ~~to the deterioration of environmental conditions in a way that~~
33 ~~threatens public health and welfare or to the environmental and~~
34 ~~economic sustainability of the state, create adverse impacts to~~
35 ~~public and environmental health or, if the well stimulation~~
36 ~~treatments result in adverse impacts to public and environmental~~
37 ~~health, the impacts are identified and sufficiently mitigated to~~
38 ~~avoid significant adverse impacts to public and environmental~~
39 ~~health at the local, regional, or statewide level, and shall provide~~
40 specific findings of this determination to the Legislature.

1 (2) If the Governor's determination concludes that there are not
2 specific measures in place as described in paragraph (1), the
3 prohibition on well stimulation treatments pursuant to subdivision
4 (a) shall remain in effect.

5 (3) If the Governor's determination concludes that there are
6 specific measures in place as described in paragraph (1), the
7 prohibition of well stimulation treatments pursuant to subdivision
8 (a) shall end on the date provided in subdivision (g).

9 (f) (1) The division shall prepare an environmental impact
10 report (EIR) pursuant to the California Environmental Quality Act
11 (Division 13 (commencing with Section 21000)), in order to
12 provide the public with detailed information regarding any potential
13 environmental impacts of well stimulation in the state.

14 (2) Any environmental review conducted by the division shall
15 fully comply with all of the following requirements:

16 (A) The EIR shall be certified by the division as the lead agency,
17 no later than July 1, 2015.

18 (B) The EIR shall address the issue of activities that may be
19 conducted as defined in Section 3157 and that may occur at oil
20 wells in the state existing prior to, and after, the effective date of
21 this section.

22 (C) The EIR shall not conflict with an EIR conducted by a local
23 lead agency that is certified on or before July 1, 2015. This
24 subparagraph does not prohibit a local lead agency from conducting
25 its own EIR.

26 (g) (1) This section shall become inoperative 90 days after the
27 date the Governor issues a determination pursuant to paragraph
28 (3) of subdivision (e).

29 (2) This section shall be repealed on January 1 immediately
30 following the date it becomes inoperative under paragraph (1).

31 (h) This section does not impair or infringe any existing property
32 rights or interests.

33 (i) The division shall not approve as complete any Interim Well
34 Stimulation Treatment Notice forms, or make any other approval
35 to authorize a well stimulation treatment, on or after January 1,
36 2015.

37 (j) This section does not preempt a local government's land use
38 authority to regulate or prohibit oil and gas operations, including
39 well stimulation treatments and related activities.

1 SEC. 6. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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